

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
WILLIAM ALLEN WILLIS, SR., and)	CASE NO. 04-65916 JPK
T'SHAWN DENISE WINTERS-WILLIS,)	Chapter 13
)	
Debtors.)	

ORDER FOR HEARING TO SHOW CAUSE

By order entered on October 1, 2007, the Clerk scheduled a hearing for November 5, 2007 at 1:00 P.M. with respect to a motion to dismiss filed by the Chapter 13 Trustee on September 20, 2007. This hearing order specifically stated the following:

IT IS FURTHER ORDERED that the debtor – and if a joint case, at least one of the joint debtors – and the attorney of record for the debtors shall appear before the Court at the scheduled hearing.

Neither of the debtors nor their attorney appeared at the scheduled hearing. Attorney Amy Godshalk, on behalf of the Chapter 13 Trustee, reported that the parties had agreed to resolution of the motion by means of an agreed order to be filed within 30 days. That is just dandy as to resolution of the Trustee's interests in the motion to dismiss, but it does not in any manner eviscerate the fact that the Court entered an order which required at least one of the debtors and their attorney to appear at a scheduled hearing, and that said order was ignored.

The Trustee's motion was filed due to the debtors' failure to provide the Trustee with copies of federal and state income tax returns and/or to pay over to the Trustee the estate's interests in tax refunds disclosed by those returns. In order to get to the point of the Trustee's filing of the motion, it was necessary for the debtors to essentially ignore requests from the Trustee that the returns and/or refunds be turned over to the Trustee. Upon the filing of the motion, it was necessary for the Court to schedule a hearing on the motion, notice that hearing to all creditors and parties-in-interest of the case, and then review the motion for the hearing. It was also necessary for the Chapter 13 Trustee's attorney to attend the hearing. The purpose of hearings of this nature on motions of this nature is not solely to obtain the debtors' attention and

compliance with the Trustee's requests. In addition to that, requiring attendance of the debtor at the hearing allows the Court to impress upon the debtors the need to comply with the Trustee's requests in the future, and the consequences if those requests go unheeded again.

Parenthetically, requiring at least one of the debtors to attend hearings of this nature justifiably inconveniences that debtor as much as his/her/their non-compliance with the Trustee's requests has previously inconvenienced the Trustee, the Trustee's counsel, the Court, and the Clerk's office.

When the Court issues an order requiring someone to appear before it, and the order itself does not contain a statement that the doing of some action in advance of the scheduled hearing will excuse that person from appearing at the hearing – then the Court expects every person ordered to appear before it to in fact do so. The Court will note that within the context of motions to dismiss of the nature of that filed in this case (Chapter 13 Trustee's motions to dismiss for failure to turnover copies of tax returns and/or the amounts of the estate's interests in tax refunds) if by the time of the scheduled hearing, Trustee's counsel can report at the hearing that copies of all required returns have by that time been received by the Trustee and in addition the Trustee's counsel presents in open court at the hearing a proposed agreed order regarding any payment of necessary refunds to the chapter 13 estate – then and only then will the debtor and debtor's counsel be excused from attending these hearings.

IT IS ORDERED that a hearing will be held on **December 17, 2007 at 1:00 P.M.** at which at least one of the debtors and their attorney shall appear before the Court to show cause, if any they have, why the Court's order entered on October 1, 2007 was not complied with.

Dated at Hammond, Indiana on November 14, 2007.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtors, Attorney for Debtors
Trustee, US Trustee